

October 21, 2004

DECISION AND ORDER
OF THE DEPARTMENT OF ENERGY

Appeal

Name of Petitioner: Michael J. Barber

Date of Filing: September 22, 2004

Case Number: TFA-0071

On September 22, 2004, Michael J. Barber (the Appellant) filed an Appeal from a final determination that the Freedom of Information/Privacy Act Group (FOI/PA) of the Department of Energy (DOE) issued on July 27, 2004. That determination concerned a request for information the Appellant submitted pursuant to the Privacy Act, 5 U.S.C. § 552a, as implemented by the DOE in 10 C.F.R. Part 1008. If the present Appeal were granted, FOI/PA would be required to conduct a further search for responsive documents.

Background

On March 8, 2004, the Appellant submitted a Privacy Act request for “copies of any and all documentation, records, or information related to [the Appellant] in any manner which is [sic] maintained by the U.S. Department of Energy or the former Atomic Energy Commission in the Washington, D.C. Offices or its related Offices and National Laboratories elsewhere.” Request Letter dated March 3, 2004, from Michael J. Barber to U.S. Department of Energy Freedom of Information Office. On July 27, 2004, FOI/PA responded that searches of the systems of records of the Idaho Operations Office (Idaho), the Richland Operations Office (Richland), the Chicago Operations Office (Chicago), and the Coordination and Information Center (CIC) under the jurisdiction of the National Nuclear Security Administration (NNSA) yielded no responsive documents. Determination Letter dated July 27, 2004, from Abel Lopez, Director, FOI/PA, DOE, to Michael J. Barber. FOI/PA indicated that Idaho and Richland searched Systems of Records DOE-5 “Personnel Records of Former Contractor Employees,” DOE-33 “Personnel Medical Records,” DOE-35 “Personnel Radiation Exposure Records,” and DOE-43 “Personnel Security Clearance Files.” *Id.* Chicago conducted searches of DOE-33, DOE-35, and DOE-43. CIC conducted a search of DOE-35 and DOE-86 “Human Radiation Experiments (HREX) Information Management System.” *Id.* No records were found that were responsive to the Appellant’s request. FOI/PA added that HREX contains historical documents from the Department of Defense, Department of Health and Human Services, Department of Veterans Affairs, Central Intelligence Agency and the DOE. *Id.* The Appellant appealed, claiming that the July 27, 2004 Determination was not responsive to his request because it informed him that

he did not have a U.S. Government personnel file. Appeal Letter dated September 10, 2004, from Michael J. Barber, to Director, Office of Hearings and Appeals (OHA), DOE.

Analysis

The Privacy Act requires that each federal agency permit an individual to gain access to information pertaining to him or her which is contained in any system of records maintained by the agency. 5 U.S.C. § 552a(d). DOE regulations define a system of records as “a group of any records under DOE control from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particulars assigned to the individual.” 10 C.F.R. § 1008.2(m).

In reviewing the present Appeal, we contacted Idaho, Richland, Chicago, and CIC to determine what type of search was conducted by each of these offices. All of the offices indicated that they conducted database searches of the systems of records indicated in the determination letter. The searches were conducted by using the Appellant’s name and social security number. Richland indicated that it also conducted a search of the system of records by the Appellant’s date of birth and conducted a hand search of the old archived files. Electronic Mail Message dated September 22, 2004, from Richland to OHA. Chicago also searched its old files archived on such media as cards and microfiche. Electronic Mail Message dated September 23, 2004, from Chicago to OHA. Idaho searched its databases by name and Social Security Number only, as they cannot be searched by birth date. Electronic Mail Message dated September 24, 2004, from Idaho to OHA. In addition to the databases, CIC searched records that are accessible through the Human Radiation Experiments (HREX) Information Management System. Electronic Mail Message from Nevada to FOIA/PA dated March 12, 2004.

No information responsive to the Appellant’s request was found. In the Appeal, the Appellant claims that the determination is bizarre in that it informs him that he does not have a government personnel file, something he already knew. However, the systems of records pertaining to government employees were searched to guarantee the most complete search possible. Moreover, the Appellant has not provided any information indicating additional places to search for the requested information. Based on the searches performed by the various offices, we are convinced that these offices followed procedures which were reasonably calculated to uncover the material sought by the Appellant in his request. Accordingly, the Appeal should be denied.

It Is Therefore Ordered That:

(1) The Appeal filed by Michael J. Barber, on September 22, 2004, Case No. TFA-0071, is hereby denied.

(2) This is a final Order of the Department of Energy from which any aggrieved party may seek judicial review pursuant to the provision of 5 U.S.C. § 552a(g)(1). Judicial review may be sought either in the district where the requester resides or has a principal place of business or in which the agency records are situated or in the District of Columbia.

George B. Breznay
Director
Office of Hearings and Appeals

Date: October 21, 2004

CONCURRENCE SHEET

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